THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO.20949 of 2006

DATED 11.10.2006

Between:
Smt.B.Vasavi and another. .. PETITIONERS

Versus

The Commissioner, L.B.Nagar
Municipality, situated at Saroornagar,
Ranga Reddy District. .. RESPONDENT

WRIT PETITION NO.20949 of 2006

ORDER:

The matter is coming up for admission today. Sri Polisetty Radhakrishna had taken notice on behalf of the respondent.

2. Sri Sharad Sanghi, learned counsel representing the petitioners would submit that the impugned order cannot be sustained in the light of the specific provision under Section 344(6) and the proviso to A.P. Municipalities Act, 1965 since the petitioners were not put on notice by the respondents before making the order. The learned counsel also had taken this Court through several factual details in the affidavit filed in support of the Writ Petition.

3. Per contra, Sri Polisetty Radha Krishna, learned Standing Counsel, would contend that the order itself is self-explanatory since reasons had been recorded stating that the trade license and the No Objection Certificate were obtained misleading the Municipality. The counsel also would maintain that under Section 345(1)© of the Act aforesaid, an appeal lies to the Municipal Council and hence the petitioners cannot be permitted to approach this Court straight away by invoking the jurisdiction of this Court under Article 226 of the Constitution of India.

4. Heard both the learned counsel.

5. It is stated by the writ petitioners that the petitioners applied for grant of trade license with the respondent and the respondent inspected the site, made necessary enquiries and issued license on 28.9.2006 with No.SS/7458/2006 as per Sections 263 and 344 of A.P. Municipalities Act, 1965 for a period of one year from 2006 to 2007. It is also stated that the respondent issued No Objection Certificate for running a Bar and Restaurant under the name and style of M/s. Bramaramba Bar and Restaurant and the petitioners paid necessary fee etc., as required by the respondent. It is also stated that after obtaining license from the respondent, the petitioners applied for license with the Prohibition and Excise Commissioner and the same is under active consideration. While things stood thus, the respondent issued impugned letter dated 3.10.2006, whereby the license and the No Objection Certificate granted by the respondent had been cancelled with immediate effect. Several factual details also had been narrated in the affidavit filed in support of the Writ Petition.

6. It is no doubt true that when a remedy of appeal is provided for, normally this Court would be slow in entertaining the Writ Petitions under Article 226 of the Constitution of India. Here is a case where the petitioners were not put on notice and were not given any opportunity of explaining their stand. It is no doubt true that as contended by the learned Standing Counsel for Municipality, in the impugned proceedings the Commissioner of Municipality had narrated several factual details. This Court is not inclined to express any opinion relating to these aspects. However, inasmuch as it is stated that no opportunity was given to the petitioners before the respondent making impugned action, the impugned order is hereby set aside, but the said impugned order to be treated as show cause notice and the petitioners are given liberty to file their objections, if any, to the said show cause notice within a period of one week from today and the respondent to

consider such objections, if any, and pass appropriate orders in relation thereto. Till this exercise is completed, status quo obtaining as on today to be maintained by the parties.

7. With the direction indicated above, the Writ Petition is disposed of. No costs.

11.10.2006

SSR
Issue order copy tomorrow.
(BO)